

Application No.: 10/556,457
Amendment dated: March 17, 2009
Reply to Office Action of December 24, 2008
Attorney Docket No.: 21295.01191/51

REMARKS/ARGUMENTS

The Specification and the drawings had been objected to.

In the Specification, the Abstract and paragraphs [0031], [0035]-[0038], [0041], and [0043]-[0044] have been amended to correct minor editorial problems or informalities and to overcome an objection; no new matter has been introduced.

Applicants believe that the amendments to the Specification traverse the objections to the Specification and the drawings.

Claims 1-16 are pending in this application.

Claims 1-16 have been amended as indicated hereinabove.

Claims 5, 10, 11 and 12 had been objected to because of informalities. The Claims have been amended to overcome these objections.

Claims 1-16 had been rejected under 35 U.S.C. § 112, second paragraph. Applicants believe that the Claims as amended are now in compliance with 35 U.S.C. § 112, second paragraph.

Claims 1-5, 10, and 13 had been rejected under 35 U.S.C. § 102(b) over Ryan, U.S. Patent Number 2,263,684 (hereinafter, "Ryan"). This rejection is respectfully traversed for the following reasons.

Unless a publication discloses within the four corners of the document not only all of the elements and limitations claimed but also all of the elements and limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.¹

¹ Net MoneyIN v. Verisign, No. 2007-1565, slip. op. at 17-18 (Fed. Cir. Oct. 20, 2008)

Application No.: 10/556,457
Amendment dated: March 17, 2009
Reply to Office Action of December 24, 2008
Attorney Docket No.: 21295.0119US1

Claims 1-5, 10, and 13 comprise a carrier with an object in it. The carrier is rotatable within a guide around its axis. This rotation results in the object being tilted with respect to the guide's axis and/or moved with respect to the guide's axis.

The elements of Ryan cited by Examiner (18, 20, 24, 25, 28, 30, 34, and 35) are rotatable around an axis, but this rotation does not result in them being tilted with respect to the axis and/or moved with respect to the axis – the position of these elements with respect to the axis of rotation remains the same, they only move around it.

As explained hereinabove, the aforementioned elements of Claims 1-5, 10, and 13 are not disclosed in Ryan. Therefore, Claims 1-5, 10, and 13 are novel and patentable over Ryan under 35 U.S.C. § 102(b) and should be allowed.

Claims 1-5 and 13-15 had been rejected under 35 U.S.C. § 102(b) over Mika, U.S. Patent Number 5,517,354 (hereinafter "Mika"). This rejection is respectfully traversed for the following reasons.

Unless a publication discloses within the four corners of the document not only all of the elements and limitations claimed but also all of the elements and limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.²

Claims 1-5 and 13-15 comprise a carrier with an object in it. The carrier is rotatable within a guide around its axis. This rotation results in the object being tilted with respect to the guide's axis and/or moved with respect to the guide's axis.

Some of the elements of Mika cited by Examiner (44 and 62) are rotatable around an axis shown in Fig. 3, but this rotation does not result in them being tilted with respect to the axis and/or moved with respect to the axis; the position of elements 28, 44, 62, and 94 cited by Examiner with respect to the axis of rotation shown in Fig. 3 of Mika remains the same, even though some of them move around this axis.

² Net Money!N v. Verisign, No. 2007-1565, slip. op. at 17-18 (Fed. Cir. Oct. 20, 2008)

Application No.: 10/556,457
Amendment dated: March 17, 2009
Reply to Office Action of December 24, 2008
Attorney Docket No.: 21295.0119US1

As explained hereinabove, the aforementioned elements of Claims 1-5 and 13-15 are not disclosed in Ryan. Therefore, Claims 1-5 and 13-15 are novel and patentable over Mika under 35 U.S.C. § 102(b) and should be allowed.

Claim 16 had been rejected under 35 U.S.C. § 103(a) over Mika. This rejection is respectfully traversed for the following reasons.

If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious.³

Claim 16 depends on Claim 15, which, as explained above, is patentable and, therefore, nonobvious. Therefore, Claim 16 is patentable over Mika under 35 U.S.C. § 103(a) and should be allowed.

It is believed that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited in this case. Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

HOUSTON ELISEEVA LLP

By /Maria M. Eliseeva/

Maria M. Eliseeva
Registration No.: 43,328
Tel.: 781 863 9991
Fax: 781 863 9931

4 Militia Drive, Suite 4
Lexington, Massachusetts 02421-4705
Date: March 17, 2009

³ In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).